UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAYMOND J. KELLER, et al., Plaintiffs, v. MOUNTLAKE TERRACE CODE ENFORCEMENT, et al., Defendants.	CASE NO. C24-2172JLR ORDER

Before the court are Plaintiffs' "motion for review and immediate intervention" (Mot. for Review (Dkt. # 42)) and second motion for default judgment (2d Def. J. Mot. (Dkt. # 43)). Plaintiffs, who are proceeding *pro se* and *in forma pauperis*, also filed a document titled "Dispute of Minute Order and Spiritual Testimony" (Dispute Letter (Dkt. # 40)) and a "request for judicial review" (Request (Dkt. # 41)), both of which appear to support Plaintiffs' motion for review. The court construes Plaintiffs' motion for review as a motion for reconsideration of its June 10, 2025 order denying Plaintiffs' motions for

default and for default judgment (6/10/25 Order (Dkt. # 37)) and DENIES Plaintiffs' motion for review and second motion for default judgment.

A motion for reconsideration is an "extraordinary remedy . . . to be used sparingly[.]" *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). "The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence." Local Rules W.D. Wash. LCR 7(h)(1).

Plaintiffs assert that the court erred when it stated that Plaintiffs filed their motion for entry of default on June 9, 2025, and, as a result, the court should vacate its June 10, 2025 order. (Mot. for Review at 1-2; *see* 6/10/25 Order at 1.) Plaintiffs are correct that the court received their motion on June 6, 2025, rather than on June 9. (*See* Dkt. # 33, docket text.) The earlier filing date, however, does not change the court's disposition of Plaintiffs motion for default and first motion for default judgment. As the court noted in its June 10, 2025 order, Defendants filed their answers to Plaintiffs' amended complaint before the Clerk entered default. (6/10/25 Order at 1.) Courts in the Ninth Circuit routinely deny motions for entry of default where the defendant has appeared in the case and indicated that it will defend itself. *See Biers v. Wash. State Liquor*, No. C15-1518JLR, 2016 WL 7723804, at *2 (W.D. Wash. Mar. 18, 2016) (compiling cases). Consistent with this practice, the court accepted Defendants' late-filed answers and, mindful of the Ninth Circuit's strong policy favoring the resolution of cases on the

merits, *see Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986),[1] exercised its discretion to deny Plaintiffs' motion for entry of default (*see* 6/10/25 Order). Thus, because Plaintiffs have identified no manifest error or material facts that would affect the court's prior order denying their motion for entry of default, the court DENIES their motion for review (Dkt. # 42). The court also DENIES Plaintiffs' second motion for default judgment (Dkt. # 43) because the Clerk has not entered default against Defendants. *See* Fed. R. Civ. P. 55; Local Rules W.D. Wash. LCR 55.

DATED this 3rd day of July, 2025.

JAMES L. ROBART
United States District Judge

[1] Plaintiffs' assertion that *Eitel* is unrelated and irrelevant to their case (*see* Mot. for Review at 1) is flatly wrong. To the contrary, *Eitel* is the Ninth Circuit's seminal case regarding the process for entering default and default judgment. *See Eitel*, 782 F.2d at 1471. Furthermore, Plaintiffs have no due process right to a hearing on their motion for entry of default. (*See* Mot. for Review at 1-2 (asserting the court's June 10, 2025 order was unconstitutional).)